

**DRAFT MINUTES**

**TENNESSEE SOLID WASTE DISPOSAL CONTROL BOARD MEETING  
RUTH NEFF CONFERENCE ROOM  
17<sup>TH</sup> FLOOR, L & C TOWER  
401 CHURCH STREET  
NASHVILLE, TENNESSEE**

**DECEMBER 2, 2003**

**Board Members Present:**

Mr. Charles Crow  
Mr. J. P. Newman, Chairman  
Mr. Jack O'Grady  
Mr. Ken Pointer  
Mr. Wilton Burnett  
Mr. Robert Waddell  
Mr. Bob Whetsel  
Mr. Glenn Youngblood

**Board Members Absent:**

Mr. Dave Kirk  
Dr. Greg Nail  
Mr. David Wallace

Chairman Newman called the meeting to order at 9:04 a.m. After noting that a quorum was present, he welcomed the board members and guests.

## **I. SOLID WASTE DISPOSAL CONTROL BOARD MATTERS**

### **A. Approval of Minutes from the October 7, 2003 Board Meeting**

Chairman Newman commented that it was good to have Mr. Burnett back after his absence due to open-heart surgery. Mr. Newman asked if the Board members had reviewed the Draft Minutes from the October 7, 2003 Board Meeting. There were no questions or changes by the Board members. A **motion** was made by Mr. Youngblood and **seconded** by Mr. Waddell **to approve the Minutes from the October 7, 2003 Board Meeting as presented. The motion carried unanimously by voice vote.**

The minutes for the November 13, 2003, special called meeting, were listed on the agenda, but as they had not been completed, they will be voted on in February 2004.

### **B. Regulatory Matters**

Mr. Bob Powell, the Enforcement and Cost Recovery Manager for Superfund, presented four sites to be removed from the list of inactive hazardous substances sites. The sites are as follows:

#### **Gaines Manufacturing (Site #09-504 McKenzie, Carroll County)**

Gaines Manufacturing opened in the early 1960s as a furniture manufacturer. In 1970 Gaines was purchased by another furniture manufacturer and continued to be used in that capacity by several companies until its closure in 2000. The facility is now inactive and abandoned in bankruptcy and there are proposals for reuse of the facility from outside interests.

The Tennessee Division of Superfund (DSF) became involved when it was discovered that paint wastes from Gaines were dumped at a Superfund site nearby. Upon investigation, numerous containers were observed in unsecured locations with drums of what was believed to be waste oil, hydrochloric acid and solvents in paint thinner/lacquer. During excavation 12 drums were discovered in a concrete lined pit.

Analytical results of the drum's contents indicated numerous compounds were significantly above background levels. Many points were sampled across the site and showed no contamination. Most importantly, the area around the concrete sump showed no contamination coming from the pit. The site was added to the List of Inactive Hazardous Substance Sites on April 30, 2002.

In April 2003, a State approved remedial action contractor removed four drums of non-hazardous liquids, 5 drums of hazardous liquids, including one drum of hydrochloric acid and approximately 158 tons of contaminated soil that were non-hazardous. The hazardous materials went to Waste Management in Emelle, Alabama and the non-hazardous materials went to the West Camden Industrial Landfill in Benton County.

This site is proposed for delisting as it has been thoroughly investigated and all contaminated materials have been removed and disposed at approved facilities. There is no longer a potential threat to human health and the environment. The responsible parties are in bankruptcy in Mississippi and the Division is pursuing cost recovery through our Office of General Counsel. DSF costs of \$108,796.76 were secured by a lien on the property, but recently the McKenzie Industrial Development Corporation negotiated to settle its share of the cleanup cost by paying \$25,000.00 and has already submitted that payment to the Division. The lien on the property has now been removed from the deed.

A public hearing was held on September 23, 2003, but none of the people present made any formal comments.

**The motion to delist this site was made by Bob Whetsell and seconded by Ken Pointer. A roll call vote was taken that passed with seven ayes and one abstain.**

#### **The B & H Transformer (Site #27-501 Yorkville, Gibson County)**

This property was previously owned by J. C. Gable. Mr. Harold Riggins acquired this site in 1966 and purchased, scrapped, and sold electrical transformers and related

materials at the facility. During this period, oily waste containing polychlorinated biphenyls (PCB's) was disposed on the ground and allowed to flow into Bethel Branch.

In 1976 the Division of Waste Pollution Control (WPC) requested Mr. Riggins provide containment for disposed oil, so he plowed the oily sludge into the soil. Subsequently, the site was referred to the DSF for follow-up and was added to the List of Inactive Hazardous Substances Sites on May 23, 1985. A Commissioner's Order was issued in 1987 requiring the owner to fence, grade, seed and construct a berm to prevent surface water run-off. These requirements were complied with in 1990. The DSF performed a Remedial Investigation/Feasibility Study (RI/FS) on the site from 1995 to 1999, which revealed a broad area of PCB contamination. Due to the volume of contaminated materials at the site EPA Region IV agreed to conduct a non-NPL Non-Time Critical Removal of PCB contaminated soil in 1997. A total of 14,000 tons of PCB contaminated soil with concentrations greater than 50 ppm were shipped to Emelle, Alabama. A total of 16,000 tons of soil with contaminations less than 50 ppm were deposited in a West Tennessee landfill.

A Focused Feasibility Study concludes that the B & H Transformer site is eligible for delisting based on the removal of contaminated soil and materials. Institutional controls are in place to protect human health and the environment. EPA spent over three million dollars on the removal action and DSF spent over \$269,000.00 completing the RI/FS and follow-up actions. The DSF-Cost Recovery section has recovered over \$200,000.00 from generators of transformers sent to the facility; therefore, the Hazardous Waste Remedial Action Fund will absorb over \$69,000.00 of remaining State costs.

A public hearing was held on September 22, 2003, and although there were several attendees, no formal comments were received.

**Mr. Burnett made the motion to delist this facility and it was seconded by Mr. Youngblood. A roll call vote was taken and passed unanimously.**

**Noma/ITT (57-516 Jackson, Madison County)**

The facility has been operated by a series of manufacturing companies, beginning with ITT in 1971 and ending with Noma Outdoor Products (now Murray Outdoor Products) that closed plant operations in 2002. In 1991 an accidental spill of non-halogenated petroleum hydrocarbon solvent occurred. Noma spent considerable resources to determine the extent of contamination at its plant and reported the site to TDEC in June 1991. In 1996, to fulfill its allocated share, ITT joined the VOAP and completed the tasks that were stipulated in a Consent Order. These tasks included creating a groundwater model and sampling the existing wells.

In response to the accidental release Noma retained Hess Environmental Services, Inc. to assist in emergency response actions, direct site cleanup activities, and perform an investigation to determine the extent of impact associated with the release. Initial sampling detected halogenated organic compounds (VOCs), primary trichloroethene (TCE) and tetrachloroethene (PCE) in groundwater beneath the facility. However, these compounds were never used at the facility during Noma's operations nor were they detected during the monitor well installation when soils recovered were analyzed. The wells have been sampled regularly during intervening years and levels above MCI's have continued to decrease. The analytical results indicate that the contaminated plume has attenuated to levels of no concern.

The DSF recommends this site be delisted as all contaminated media have been remediated and pose no risks to human health or the environment. The Department is still resolving cost recovery issues to settle state costs of \$157,000.00. The current owners of the facility are not liable parties and therefore the property will not be an issue in the settlement.

A public hearing was held on October 21, 2003. There were no attendees and no formal comments were received.

After much discussion from Board members and comments from Ron Sells, from our Jackson Environmental Assistance Center, **a motion to delist Noma/ITT was made by Mr. Waddell and seconded by Mr. Burnett. The motion passed unanimously with a roll call vote.**

#### **Hamill Road Dump (Site #33-541 Chattanooga/Hamilton County)**

It is estimated this dump has been in use from the late 1940's. In 1981-82, the State, EPA, and TVA conducted a joint sampling program and found a variety of industrial chemical wastes. In 1983-84, the property owner, Southern Region Industrial Realty (SRIR), a subsidiary of Norfolk Southern Railway Company, conducted a leachate-monitoring program and found that Chattanooga Creek was not being contaminated by leachate from this site. In order to prevent future releases from the industrial wastes, SRIR capped and fenced the site from 1984-86. In 1985, SRIR developed a Site Closure, Post Closure and Maintenance Plan. Subsequently, in 2002, due to the lack of leachate in the monitoring system, the Tennessee Division of Superfund (TDSF) required SRIR to install monitoring wells and to resubmit a long-term operations and maintenance (O & M) plan. The O & M plan was reviewed and approved in 2003.

After four quarters of groundwater monitoring, TDSF evaluated the effectiveness of the cap. The results indicated all organic chemical constituents were non detect with the exception of the pesticide Aldrin, which was detected only once in one monitoring well, at a concentration of 0.093 micrograms per liter (parts per billion). This reading, and the detection of Iron and manganese, were above the EPA Region 9 tap water Preliminary Remediation Goal (PRG). However, due to lack of current or future exposure to groundwater and the deed restriction imposed on the property, this should not pose a threat to human health.

The cap will undergo regular maintenance inspections including mowing and vegetation control at least annually to determine that the cap is functioning properly. Financial assurance guarantees ensure the cap will be maintained for at least 30 years. These guarantees will be revised annually for depreciation and inflation to ensure that

adequate funding is maintained to perform the required O & M activities. Annual reports will be submitted to TDSF. The monitoring wells will be maintained and secured for the present for potential monitoring purposes until such a time as it is determined that they are no longer necessary and then an approved method of abandonment will be performed subject to the Division of Superfund approval. All state cost for oversight at the facility have been paid and there are financial assurance guarantees in place to provide long term maintenance

A public hearing was held on October 23, 2003 in Chattanooga. There were several attendees, but no formal comments were received.

**Mr. Youngblood made the motion to delist this site and it was seconded by Mr. Crowe. There was no discussion and the motion carried unanimously by roll call vote.**

**The next item on the agenda proposed some adjustments to the amendments on the Remedial Action Fund Fees, but Mr. Powell asked that this item be continued at a later date.**

#### **Adoption Consideration for Draft Revision "x" Hazardous Waste Rules**

Jerry Ingram addressed the Board and welcomed Mr. Wilton Burnett back after having open-heart surgery.

Notice of rule-making hearing for the annual update Revision "x" to the Hazardous Waste Rules, was filed with the Secretary of State's office on August 18, 2003, and published in the Tennessee Administrative Register on September 15, 2003. The rule-making hearing was held on October 21, 2003. No attendees were present at the hearing and no written comments were received. This rule-making hearing included multiple and various additions, deletions and modifications to the Rules from three Federal Registers and "housekeeping" proposed modifications in handouts which Mr. Ingram reviewed and discussed.

After the brief discussion, Mr. Waddell made the motion this package be adopted. Mr. Youngblood seconded the motion. The motion carried unanimously by roll call vote.

### **Regulatory Update**

Mr. Ingram presented a regulatory update on several items, including revision "w" of the Hazardous Waste Regulations. This revision has already been to the Attorney General's Office and is now in the Secretary of State's Office. The targeted effective date is January 12, 2004. This revision still has to go before the joint legislative Government Operations Committee for their review and approval.

Relative to an item presented at our last board meeting, regarding Conditionally Exempt Small Quantity Generators, we had proposed to get the Board's approval to pursue developing a process by which we would bring all or at least a large portion of the Conditionally Exempt Small Quantity Generator universe into our regulated universe to identify and register them. The Board had asked the Division to prepare a more firm proposal regarding this process. The Division has elected to withdraw that proposal for the time being. At the time of presentation, the Division had anticipated being able to do registrations through the Division's website, but was unable to get this accomplished due to the lack of support by the Department's Information System Division. SWM intends to present this proposal again after March 2004 when the end-of-year reports are completed. This is in connection with Mr. Powell's withdrawal of Superfund's amendment regarding changing the due date from October 15 to March 1 for the Remedial Action Fund Fees.

The Division is proposing to use new Hazardous Waste Generator, etc., Fee Determination Information Sheets. Mr. Ed King, of DSWM, has developed a program that will utilize the information received from these sheets and calculate all the fees that are due. This information will then be sent to the Department's Fiscal Services Fee Section where invoices will be issued, showing the fees due and the date they are due. All generators receiving these sheets, regardless of their status, are requested to

complete and return this information by February 15. This will allow the Division to know when and why a generator is dropping out of the universe. This information sheet will be sent to those facilities that dropped out of our universe during the last two years to determine and record their actual status.

### **Agreed/Consent Orders**

#### **William M. Barr & Company, Inc., SWM Cases 03-H0005 and 03-H0006, Memphis**

General Counsel, Mr. Max Fleischer, presented a summary of an Agreed Order for W. M. Barr and Company, Inc. On April 12<sup>th</sup> and April 17<sup>th</sup>, the Division conducted a compliance evaluation inspection of a chemical manufacturing and warehousing facility operated by W. M. Barr and Company, Inc. ("Respondent") to determine whether the facility was properly managing hazardous waste. During the inspection, the Division made observations which gave the Division reason to believe that the Respondent violated certain provisions of the rules governing hazardous waste management. On March 27, 2003, the Division issued Order and Assessment 03-H0005, which set out the alleged violations and assessed the Respondent civil penalties of \$24,000.00. The alleged violations were briefly set out on page 3 of the Order.

On June 12<sup>th</sup> and 18<sup>th</sup> of 2002, the Division conducted a compliance evaluation inspection of another chemical manufacturing facility operated by the Respondent. During the inspection, the Division made observations which gave the Division reason to believe that the Respondent violated certain provisions of the rules governing hazardous waste management. On March 27, 2003, the Division issued Order 03-H0006 which set out the alleged violations and assessed the Respondent civil penalties of \$20,000.00. The alleged violations were briefly set out on page 3 of the Order.

The Respondent petitioned for review of both Orders. In order to resolve this matter in an expeditious and cost-efficient manner without the need for a trial, the Respondent and the Division requests approval of the Agreed Order. This Agreed Order provided for the payment of a five thousand dollar (\$5,000.00) penalty to the Division. Additionally, the Agreed Order requires the Respondent to implement a Supplemental Environmental Project ("SEP"). As a SEP, the Respondent has proposed eliminating its methylene chloride emissions during the

manufacturing process at the facility at which manufacturing and warehousing is conducted. There is currently no state or federal limit on the methylene chloride emissions from the Respondent's facilities. As indicated in the SEP proposal that is attached to this Agreed Order, the Respondent specifically proposes for the manufacturing and warehousing facility fabricating two 2,500 gallon pressurized vessels in which all methylene chloride based production would be conducted. Currently, the Respondent uses four non-pressurized vessels for the aforementioned production. The Respondent has indicated that the SEP proposal will cost about \$245,000 to implement.

After a brief review, a motion was made by Mr. Burnett and seconded by Mr. Waddell to accept this Agreed Order. The motion carried by voice vote.

The meeting was dismissed at 11:20 am after a motion to adjourn was made by Mr. Waddell and seconded by Mr. Youngblood.

**SUBMITTED BY:**

\_\_\_\_\_  
**Mike Apple, Technical Secretary**

\_\_\_\_\_  
**Date**

**APPROVED BY:**

\_\_\_\_\_  
**J.P. Newman, Chairman  
Solid Waste Disposal Control Board**

\_\_\_\_\_  
**Date**